

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DALLAS SWANK, et al.,

Plaintiffs,

v.

DEPUY SYNTHES SALES INC., et al.,

Defendants.

CASE NO. C20-1373-LK

**ORDER DIRECTING THE
PARTIES TO CONFER AND
PROVIDE LCR 37 JOINT
SUBMISSION REGARDING
REMAINING DISCOVERY
DISPUTES**

The Court granted reconsideration of the order granting in-part plaintiffs' motion to compel based on the understanding of the parties that discovery should be provided regarding "the type of Agility Total Ankle Prosthesis that is the subject of this case." Dkt. 23-2, at 15; *see* Dkt. 34. Plaintiffs now move for reconsideration of that order by contending there are several categories of production that have yet to be provided that involve the kind of ankle prosthesis implanted in plaintiff Mr. Swank. Dkt. 35. Plaintiffs did not suggest that these categories of production had not been provided when opposing defendants' motion for reconsideration. Dkt. 32.

Before considering plaintiffs' current motion for reconsideration, Dkt. 35, the Court **ORDERS** the parties to confer and to provide to the Court a LCR 37 Joint Submission that sets forth the remaining discovery disputes. *See* LCR 37(a)(2) & Appendix B. Plaintiffs shall be

1 responsible for preparing and filing the LCR 37 Joint Submission with the court by **May 18,**
2 **2022**, and it shall be noted for consideration on the same day. *See* LCR 37(a)(2)(A).

3 The Court presumes that information relevant to the device or replacement parts
4 implanted in 2003 and 2008 is discoverable but that information about the LP system device, if
5 no part of it was implanted in plaintiff, likely has little relevance. Hence to the extent defendants
6 have provided all discovery related to the Agility Ankle system at issue, they should so state and
7 set forth what was provided. Plaintiffs should indicate whether they agree with defendants'
8 statement. To the extent discovery is requested regarding information about other Agility Ankle
9 devices, plaintiff should detail that request.

10 DATED this 4th day of May, 2022.

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13 BRIAN A. TSUCHIDA
14 United States Magistrate Judge
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